## REMARKS

Claims 1-18, 43, and 44 are pending in the present application. Reconsideration of the claims is respectfully requested.

### I. Examiner Telephone Conversation

Applicant thanks Examiner Gort for the courtesies extended to Applicant's representative during the August 31, 2004 telephone conversation. During the telephone conversation, Applicant indicated that the Bullard et al. reference used in the 35 U.S.C. § 103 rejection is removable under 35 U.S.C. § 103(c). Thus, the only issue that would be on appeal would be the rejection under 35 U.S.C. § 112, first paragraph. Applicant respectfully requested that Examiner Gort reconsider the arguments, submitted in the May 25, 2004, Response to Final Office Action, in response to the 35 U.S.C. § 112, first paragraph rejection in order to expedite prosecution. Examiner Gort indicated that she would review the arguments and respond to Applicant's representative. On September 1, 2004, Examiner Gort indicated that the arguments submitted in the May 25, 2004, Response to Final Office Action were sufficient to overcome the 35 U.S.C. § 112, first paragraph rejection and Applicant submit a supplemental response asserting the removal of the Bullard et al. reference under 35 U.S.C. § 103(c). Thus, Applicant is submitting the following remarks, which include the 35 U.S.C. § 112, first paragraph for reiteration purposes only.

### II. 35 U.S.C. § 112, First Paragraph, Claims 1-18, 43 and 44

The Final Office Action rejects claims 1-18, 43 and 44 under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement. This rejection is respectfully traversed.

The Final Office Action, dated March 25, 2004, states:

> The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The specification

> docs not state only one start record and only one stop record are sent for a plurality of short data burst transmissions. It is further unclear what this start and stop record is incorporating. Is this a data packet transmission that would inherently incorporate records?

Applicant respectfully submits that the claims are enabled by the specification, and specifically that the specification does in fact state that only one start record and only one stop record are sent for a plurality of short data burst transmissions. For example, the specification states at page 2, lines 7-13 in the Summary of the Invention:

> The method and apparatus are capable of accumulating accounting information for short data bursts and for active traffic channel transmissions such that an accounting message is sent to an accounting server only when transitions from short data burst transmissions or active traffic channel transmission to another state are encountered. Thus, accounting information for a plurality of short data bursts and/or active traffic channel transmissions are accumulated.

This passage describes accumulating accounting information for short data bursts. The way in which this is accomplished is described in the detailed description, specifically in **Figures 9** and **10**, which describe the messages sent when a start and stop record are sent for each SDB to the accounting server (**Figure 9**), and the messages sent when SDB accounting information is accumulated for a plurality of SDBs (**Figure 10**). Part of the text of **Figure 10** is hereby reproduced for reference (p. 19, line 20-p. 20, line 9 of the specification):

> Transmission of data to the mobile station is then over an active traffic channel until the mobile station goes dormant. At this time, an active stop airlink record is sent from the wireless communication network to the accounting controller. The accounting controller sends a stop record to the accounting server identifying the number of SDBs, total number of SDB octets and the octet count. This information is sent again since the stop record must be cumulative and contain all the information since the start record. In other words, the start record opens an accounting entry and the stop record reports all the final counts. The total number of SDBs, SDB octets and the octet count are then cleared (Tn).
>
> Thus, with the present invention, the number of messages sent to the accounting server is minimized by accumulating short data burst information over an interval containing a plurality of short data bursts. Thus, rather than sending eight accounting messages to the accounting server in the above example, only four messages are sent, thereby reducing the number of required accounting messages to half. In addition, the race condition that may be encountered when sending accounting messages for each short data burst are eliminated due to the accumulation of short data burst information over a time interval. The time

interval in this example is the period starting with the first short data burst and ending when data transmission over an active traffic channel is started. (emphasis added.)

Though this is only part of the lengthy discussion of **Figure 10**, the recited passage includes description relevant to the Office Action's concern for enablement of the claims. Particularly, the specification teaches that a start record opens an accounting entry while the stop record reports all the final counts. This allows accumulation of short data burst information and reduction of messages that must be sent.

As for Office Action's statement that it is unclear what the start record and stop record incorporate, it is respectfully submitted that these terms are described in the specification. For example, **Figures 5** and **6** describe start and stop airlink records, respectively (p.12, lines 1-28):

**Figure 5** is an exemplary table diagram of the parameters that make up an active start airlink record. As shown in **Figure 5**, the active start airlink record includes an airlink record type **505**, a session identifier **510**, a user zone **515**, a forward Mux option **520**, a reverse Mux option **525**, a forward fundamental rate **530**, a reverse fundamental rate **535**, and a service option **540**, a forward traffic type **545**, a reverse traffic type **550**, a fundamental frame size **555**, a forward fundamental RC **560**, a reverse fundamental RC **565** and an airlink quality of service **570**. The airlink record type **505** identifies which type of airlink record it is (start, stop, SDB, connection setup, connection release). The session identifier **510** is a unique identifier for each wireless network-data network connection. The other parameters **515-565** are all defined parameters in standard TIA/EIA-2000 available from the Telecommunication Industry Association/Electronics Industry Association. The airlink quality of service **570** has 16 levels of priority values designated various levels of quality of service. These 16 levels of priority can also be found in standard TIA/EIA-2000. The active start airlink record informs the accounting controller **240** of the start of data transmission across the traffic channel.

**Figure 6** is an exemplary table diagram illustrating the parameters of an active stop airlink record. As shown in **Figure 6**, the active stop airlink record includes an airlink record type **610**, a session identifier **620** and an active connection time in seconds **630**. The airlink record type **610** identifies the airlink record as an active stop airlink record. The session identifier **620** identifies the session. The active connection time in seconds **630** informs the accounting controller **240** of the number of seconds the traffic channel was active with data from the session.

In addition to transmitting data over the traffic channels in a normal operation as handled by the above start and stop airlink records, data may be transmitted as short data bursts (SDBs). A short data burst is a burst of data that lasts for a very

> short time rather than a consistent stream of data and is sent over common traffic channels instead of dedicated traffic channels as specified in TIA/EIA-2000.

Hence, Applicant respectfully submits that these terms are described in the specification sufficient to enable one of ordinary skill in the art to understand how to make and/or use the invention, and to apprehend the scope of the claims.

Section 112 requires that an applicant provide an enabling disclosure of his or her invention. Specifically, the disclosure must teach a person of ordinary skill in the art how to make and use the invention without undue experimentation. In the disclosure, however, the applicant need not teach what is well known in the art. *Lindemann Machinenfabrik GMBH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 U.S.P.Q. 481 (Fed. Cir. 1984); *Staehelin v. Secher*, 24 U.S.P.Q.2d 1513, 1516 (Bd. Pat. App. & Int. 1992). In fact a patent preferably omits what is well known in the art. *Spectra-Physics, Inc. v. Coherent, Inc.*, 827 F.2d 1524, 3 U.S.P.Q.2d 1737 (Fed. Cir. 1987).

Hence, it is respectfully submitted that the terms "airlink stop and stop records" have been described such that the specification is enabling to one of ordinary skill in the art. Accordingly, Applicant respectfully submits that the rejection of claims 1-18, 43 and 44 under 35 U.S.C. § 112, first paragraph should be withdrawn.

## III. 35 U.S.C. § 103, Alleged Obviousness, Claims 1-18, 43 and 44

The Final Office Action rejects claims 1-18, 43 and 44 under 35 U.S.C. § 103(a) as being unpatentable over Bullard et al. (U.S. Patent No. 6,405,251) in view of Monte et al. (U.S. Patent No. 6,023,606). This rejection is respectfully traversed.

Applicant submits that Bullard fails to teach or suggest the features alleged in the Office Action. In addition, the Bullard patent and the instant application were, at the time of the invention was made, owned by, or subject to an obligation of assignment to the same person. 35 U.S.C. § 103(c) states:

> (c) Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the

invention was made, owned by the same person or subject to an obligation of assignment to the same person.

The instant application was filed on or after November 29, 1999. The Bullard patent qualifies as prior art only under 35 U.S.C. § 102(e). And, the instant application and the Bullard patent were commonly owned or subject to an obligation of assignment to the same person at the time the invention was made. Therefore, the Bullard patent cannot be used in a 35 U.S.C. § 103 rejection to preclude patentability. As such, the rejection is improper and should be withdrawn.

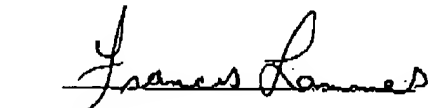
In view of the above, Applicant respectfully submits that Bullard and Monte, taken alone or in combination, fail to teach or fairly suggest the features of independent claim 1. At least by virtue of their dependency on independent claims 1, the features of dependent claims 2-18, 43 and 44 are not taught by Bullard and Monte, whether taken alone or in combination. Accordingly, Applicant respectfully requests submits that the rejection of claims 1-18, 43 and 44 under 35 U.S.C. § 103(a) should be overturned.

## IV. Conclusion

It is respectfully urged that the subject application is patentable over the prior art of record and is now in condition for allowance. The Examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the Examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

Respectfully submitted,

DATE: September 2, 2004



Francis Lammes
Reg. No. 55,353
Yee & Associates, P.C.
P.O. Box 802333
Dallas, TX 75380
(972) 367-2001
Agent for Applicant